

## REMARKS

Reconsideration and allowance of this application are respectfully requested in light of the above amendments and the following remarks.

Claims 23-33 have been canceled in favor of new claims 34-42. Claims 34-42 have been drafted to avoid the objections applied to claims 23 and 33 and the indefiniteness rejections applied to claims 23-33. Support for the amendments is provided for example in the original claims filed in the preliminary amendment and page 10, line 21, through page 16, line 19, of the specification. (References herein to the specification and drawings are for illustrative purposes only and are not intended to limit the scope of the invention to the referenced embodiments.)

Claims 23-33 were rejected, under 35 USC § 103(a), as being unpatentable over 3GPP, Draft TR 25.890v1.2.0, R4-021538 "HSDPA, UE Radio Transmission and Reception," RAN WG4 meeting #25, Secaucus, NJ, USA, November 2002)(hereafter 3GPP) in view of RAN WG4 meeting #25, Secaucus, NJ, USA, R4-021533 "VRC Test Approach," November 2002)(hereafter R4-021533). To the extent the rejections may be deemed applicable to new claims 34-42, the Applicants respectfully traverse based on the points set forth below.

Claim 34 defines an accuracy testing apparatus that receives a channel quality report for data transmitted according to a first transmission scheme and uses a reception error rate of data transmitted according to a second transmission scheme, selected in accordance with the channel quality report, to determine the accuracy of the received channel quality report. The claimed subject matter provides an advantage of enabling determining the most suitable transmission scheme for packet data prior to its transmission and subsequently verifying the suitability of the transmission scheme (see specification page 4, line 23, through page 5, line 7).

3GPP discloses applying a transmission scheme in accordance with a most recently received channel quality report (see 3GPP at page 6, section 5.b). Although this disclosure by 3GPP seems to share the similarity with the Applicants' claimed subject matter of selecting a second transmission scheme in accordance with a channel quality report, 3GPP does not disclose the Applicants' claimed subject matter of determining the accuracy of the channel quality report, for a first transmission scheme, or doing so with a reception error rate of data transmitted using the second transmission scheme, as acknowledged in the Final Rejection (see Final Rejection page 8, lines 11-12).

R4-021533 discloses improving the accuracy of a channel quality report by statistically processing numerous channel quality reports over a period of time using a single transport format (i.e., transmission scheme) (see R4-021533 at page 2, first half of left column). Thus, R4-021533 also does not disclose determining the accuracy of a channel quality report, for data communicated according a first transmission format, using a reception error rate of data communicated according to a second transmission format.

Accordingly, the Applicants submit that the teachings of 3GPP and R4-021533, considered individually or in combination, do not render obvious the subject matter defined by new claim 34. Independent claim 42 similarly recites the above-mentioned subject matter distinguishing apparatus claim 34 from the applied references, but with respect to a method. Therefore, allowance of claims 34 and 42 and all claims dependent therefrom is deemed to be warranted.

To promote a better understanding of the patentable distinctions of the Applicants' claimed subject matter over the teachings of the applied references and the manner in which the new claims

overcome the objections and indefiniteness rejections, the Applicants provide the following additional remarks.

Regarding the objections applied to claims 23 and 33, new claims 34 and 42 recite transmitting data by a first transmission scheme and then transmitting data by a second transmission scheme. This newly recited subject matter finds support in the original disclosure, in that, for example, the specification discloses that, prior to a reported CQI accuracy measurement test, test data is transmitted for a fixed period and, thereafter, the CQI accuracy measurement test is started with the transmission of measurement test data. (see specification page 10, lines 21-25, page 12, lines 10-12 and 18, and page 12, line 27, through page 13, line 4).

With regard to the indefiniteness rejections, the new claims do not recite a "packet." Instead, these claims recite data transmitted according to a first transmission scheme and data transmitted according to a second transmission scheme. Applicants submit that the meaning of this claim language would be well understood by those of ordinary skill in the art.

With regard to the obviousness rejections, claims 34 and 42 recite transmitting data by a predetermined first transmission scheme and setting a second transmission scheme that is based on a channel quality report value reported from a communication apparatus in response to the data transmitted by the first transmission scheme, as the transmission scheme for data to be transmitted to the communication apparatus. The accuracy of the channel quality report value reported from the communication apparatus is determined based on the reception error rate of data transmitted by the second transmission scheme.

That is to say, data transmission by the first transmission scheme is carried out prior to a test and data transmission by the second transmission scheme is the real test. In other words, a

feature of the Applicants' claimed invention lies in carrying out data transmission by the first transmission scheme prior to a test and setting a second transmission scheme for the data transmission that is transmitted then for a test, based on the channel quality report value reported from the communication apparatus in response to the data transmission by the first transmission scheme carried out prior to the test.

By contrast with this, 3GPP discloses setting a test data transmission scheme based on a CQI reported during a test, and R4-021533 discloses setting a test data transmission scheme without relying upon CQI reports.

The disclosures of the above references bear no relationship to the above-noted feature of the Applicants' claimed invention, and these references therefore fail to disclose or suggest the claimed invention.

In view of the above, it is submitted that this application is in condition for allowance and a notice to that effect is respectfully solicited.

Respectfully submitted,

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